

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MANIK UPPAL
1467 Nettle Creek Way
Chula Vista, CA 91915

Registered Nurse License No. 696479

Respondent

Case No. 2013-68

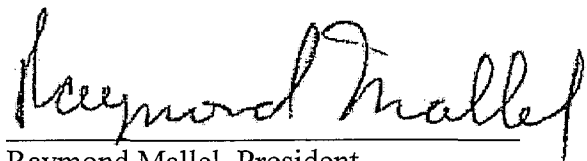
OAH No. 2012090103

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **March 8, 2013.**

IT IS SO ORDERED **February 6, 2013.**



Raymond Malle, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LORETTA A. WEST
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Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **MANIK UPPAL**
14 **1467 Nettle Creek Way**
15 **Chula Vista, CA 91915**

16 **Registered Nurse License No. 696479**

17 Respondent.

Case No. 2013-68

OAH No. 2012090103

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR
PUBLIC REPROVAL**

[Bus. & Prof. Code § 495]

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order for
22 Public Reproval which will be submitted to the Board for approval and adoption as the final
23 disposition of the First Amended Accusation.

24 **PARTIES**

25 1. LOUISE R. BAILEY, M.Ed., RN (Complainant) is the Executive Officer of the
26 Board of Registered Nursing. She brought this action solely in her official capacity and is
27 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
28 Loretta A. West, Deputy Attorney General.

2. Respondent Manik Uppal is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about February 5, 2007, the Board of Registered Nursing issued Registered Nurse license No. 696479 to Manik Uppal (Respondent). The Registered Nurse license was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 2013-68 and will expire on March 31, 2013, unless renewed.

JURISDICTION

4. On July 25, 2012, Accusation No. 2013-68 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on July 25, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

5. On October 24, 2012, First Amended Accusation No. 2013-68 was filed before the Board of Registered Nursing and superseded Accusation No. 2013-68. A copy of First Amended Accusation No. 2013-68 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in First Amended Accusation No. 2013-68. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

///

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in First
3 Amended Accusation No. 2013-68.

4 10. Respondent agrees that his Registered Nurse license is subject to discipline and he
5 agrees to be bound by the Board of Registered Nursing's Disciplinary Order below.

6 CONTINGENCY

7 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
8 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
9 Registered Nursing may communicate directly with the Board regarding this stipulation and
10 settlement, without notice to or participation by Respondent. By signing the stipulation,
11 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
12 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
13 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public
14 Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any
15 legal action between the parties, and the Board shall not be disqualified from further action by
16 having considered this matter.

17 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
18 and Disciplinary Order for Public Reproval, including facsimile signatures thereto, shall have the
19 same force and effect as the originals.

20 13. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by
21 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
22 of their agreement. It supersedes any and all prior or contemporaneous agreements,
23 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
24 Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified,
25 supplemented, or otherwise changed except by a writing executed by an authorized representative
26 of each of the parties.

27 ///

28 ///

1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

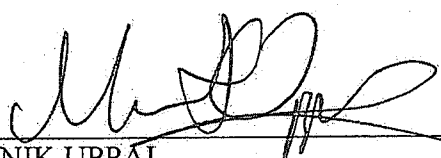
5 IT IS HEREBY ORDERED that Registered Nurse license No. 696479 issued to
6 Respondent Manik Uppal (Respondent) shall be, by way of letter from the Board's Executive
7 Officer, publicly reprovod. The letter shall be in the same form as the letter attached as Exhibit B
8 to this stipulation.

9 IT IS FURTHER ORDERED that Respondent shall pay \$2,755.00 to the Board for its costs
10 associated with the investigation and enforcement of this matter. Respondent shall be permitted
11 to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board
12 costs as ordered, Respondent shall not be allowed to renew his Registered Nurse license until
13 Respondent pays costs in full.

14 **ACCEPTANCE**

15 I have carefully read the Stipulated Settlement and Disciplinary Order for Public Repraval.
16 I understand the stipulation and the effect it will have on my Registered Nurse license. I enter
17 into this Stipulated Settlement and Disciplinary Order for Public Repraval voluntarily,
18 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
19 Registered Nursing.

20
21 DATED: 11-1-12

22 
23 _____
24 MANIK UPPAL
25 Respondent
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Dated: 11/7/12

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

SD2012703097

Exhibit A

First Amended Accusation No. 2013-68

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER,
Supervising Deputy Attorney General
3 LORETTA A. WEST, State Bar No. 149294
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Facsimile: (619) 645-2061
7 *Attorneys for Complainant*

8
9
10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

15 **MANIK UPPAL**
16 **1467 Nettle Creek Way**
Chula Vista, CA 91915

17 **Registered Nurse License No. 696479**

18 Respondent.

Case No. 2013-68

FIRST AMENDED
ACCUSATION

19
20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this First Amended Accusation
23 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
24 Department of Consumer Affairs.

25 2. On or about February 5, 2007, the Board of Registered Nursing issued Registered
26 Nurse License Number 696479 to Manik Uppal (Respondent). The Registered Nurse License
27 was in full force and effect at all times relevant to the charges brought herein and will expire on
28 March 31, 2013, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) states:

Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of non-payment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.

STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

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1 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
2 revoke a license on the ground that the licensee has been convicted of a crime substantially
3 related to the qualifications, functions, or duties of the business or profession for which the
4 license was issued.

5 9. Section 493 of the Code states:

6 Notwithstanding any other provision of law, in a proceeding conducted by a
7 board within the department pursuant to law to deny an application for a license or
8 to suspend or revoke a license or otherwise take disciplinary action against a person
9 who holds a license, upon the ground that the applicant or the licensee has been
10 convicted of a crime substantially related to the qualifications, functions, and duties
11 of the licensee in question, the record of conviction of the crime shall be conclusive
12 evidence of the fact that the conviction occurred, but only of that fact, and the board
13 may inquire into the circumstances surrounding the commission of the crime in
14 order to fix the degree of discipline or to determine if the conviction is substantially
15 related to the qualifications, functions, and duties of the licensee in question.

16 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
17 'registration.'

18 10. Section 2761 of the Code states:

19 The board may take disciplinary action against a certified or licensed nurse
20 or deny an application for a certificate or license for any of the following:

21 (a) Unprofessional conduct, which includes, but is not limited to, the
22 following:

23 ...

24 (f) Conviction of a felony or of any offense substantially related to the
25 qualifications, functions, and duties of a registered nurse, in which event the record
26 of the conviction shall be conclusive evidence thereof.

27

28 11. Section 2762 of the Code states:

 (b) Use any controlled substance as defined in Division 10 (commencing with
Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
device as defined in Section 4022, or alcoholic beverages, to an extent or in a
manner dangerous or injurious to himself or herself, any other person, or the public
or to the extent that such use impairs his or her ability to conduct with safety to the
public the practice authorized by his or her license.

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1 (c) Be convicted of a criminal offense involving the prescription,
2 consumption, or self-administration of any of the substances described in
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
4 record pertaining to, the substances described in subdivision (a) of this section, in
5 which event the record of the conviction is conclusive evidence thereof.

6 REGULATORY PROVISIONS

7 12. California Code of Regulations, title 16, section 1444, states:

8 A conviction or act shall be considered to be substantially related to the
9 qualifications, functions or duties of a registered nurse if to a substantial degree it
10 evidences the present or potential unfitness of a registered nurse to practice in a
11 manner consistent with the public health, safety, or welfare. Such convictions or
12 acts shall include but not be limited to the following:

13 (a) Assaultive or abusive conduct including, but not limited to, those
14 violations listed in subdivision (d) of Penal Code Section 11160.

15 (b) Failure to comply with any mandatory reporting requirements.

16 (c) Theft, dishonesty, fraud, or deceit.

17 (d) Any conviction or act subject to an order of registration pursuant to
18 Section 290 of the Penal Code.

19 13. California Code of Regulations, title 16, section 1445(b), states:

20 When considering the suspension or revocation of a license on the grounds
21 that a registered nurse has been convicted of a crime, the board, in evaluating the
22 rehabilitation of such person and his/her eligibility for a license will consider the
23 following criteria:

24 (1) Nature and severity of the act(s) or offense(s).

25 (2) Total criminal record.

26 (3) The time that has elapsed since commission of the act(s) or offense(s).

27 (4) Whether the licensee has complied with any terms of parole, probation,
28 restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section
1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

24 COST RECOVERY

25 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(November 17, 2011 Conviction for Driving With Blood Alcohol Content of 0.08 Percent or More on July 23, 2011)

15. Respondent is subject to disciplinary action under Code sections 490 and 2761(f) of the Code in that he was convicted of a crime substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

16. On or about November 17, 2011, in a criminal proceeding entitled *People of the State of California v. Manik Uppal*, in the San Diego County Superior Court, North County Division, Case No. CN295837, Respondent was convicted on his plea of guilty of violating Vehicle Code section 23152(b) (driving with a blood alcohol level (BAC) of 0.08 percent or more), a misdemeanor, with an enhancement under Vehicle Code section 23578 for having a BAC of 0.15 percent or more, which Respondent admitted. His BAC was found to be .18 percent. As a result of a plea bargain, a charge of violating Vehicle Code section 23152(a) (driving under the influence of alcohol) was dismissed.

17. On December 23, 2011, as a result of the above conviction, the Court placed Respondent on five years summary probation and ordered Respondent to pay a \$2,000 fine, complete five days of public service, and complete a First Conviction Alcohol Program.

18. The circumstances that led to Respondent's conviction are that on July 23, 2011, at approximately just after midnight, San Diego County Sheriff's Deputies, while working traffic enforcement in the City of Del Mar, California, and while driving eastbound on 15th Street approaching Camino Del Mar in Del Mar, observed a white Infiniti SUV stop in front of them approximately 200 feet from the intersection while there were no pedestrians in the vicinity nor any other safety hazards. After about five seconds, the vehicle continued eastbound on 15th Street and turned southbound on Camino Del Mar. The vehicle turned into the number two lane and then ran over the dividing white lines, continuing to drive over the lines for approximately fifty feet. At the intersection of Camino Del Mar and 13th Street, the vehicle failed to make a complete stop at the stop sign, rolling through at approximately five miles per hour. Deputies then conducted an enforcement stop and identified the driver as Respondent. Deputies could

1 smell the odor of alcohol upon Respondent's breath and person and observed him to have droopy
2 eyelids, red glassy eyes, and slurred speech. When first questioned, Respondent told Deputies
3 that he had not consumed any alcohol, but then admitted to having two beers at home. Deputies
4 had Respondent perform a series of field sobriety tests, which he failed. Deputies arrested
5 Respondent for driving under the influence of alcohol and transported him to the Encinitas
6 Station for processing. Once at the station, Respondent submitted to a blood test which showed a
7 BAC of .18 percent.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct-Use of Alcohol in a Manner Dangerous 10 or Injurious to Self or Others)**

11 19. Respondent is subject to disciplinary action for unprofessional conduct under Code
12 section Code section 2762, subdivision (b), in that on July 23, 2011, he used alcohol to an extent
13 or in a manner that was dangerous to himself and the public when he drove a vehicle while
14 having a significantly high BAC, as set forth in paragraphs 15-18, above, which are incorporated
15 here by reference.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Conviction of a Drug or Alcohol Related Crime)**

18 20. Respondent is subject to disciplinary action for unprofessional conduct under
19 Code section 2762, subdivision (c), in that he was convicted of a criminal offense involving the
20 consumption of alcohol, as set forth in paragraphs 15-18, above, which are incorporated here by
21 reference.

22 **DISCIPLINARY CONSIDERATIONS**

23 21. Pursuant to California Code of Regulations, title 16, section 1445, to determine
24 the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or
25 about August 23, 2002, in a criminal proceeding entitled *People of the State of California v.*
26 *Manik Uppal*, in the San Diego County Superior Court, Central Division, Case No. M868421,
27 Respondent was convicted on his plea of guilty of violating Penal Code section 602(j) (trespass),
28 a misdemeanor. The circumstances surrounding the conviction are that on or about June 8, 2002,

1 at approximately 1820 hours, Respondent was arrested by San Diego Police Officers for
2 shoplifting at Nordstrom's in University Town Center shopping mall. As a result of a plea
3 agreement, Respondent pled guilty to violating Penal Code section 602(j) (trespass) and the
4 charge for violating Penal Code section 484(a)-488 (petty theft) was dismissed. As a result of
5 the conviction, Respondent was placed on three years summary probation, ordered to violate no
6 laws, pay various fines and fees, enroll in and complete a shoplifting course, and not go in or
7 around the premises of Nordstrom's in University Town Center in San Diego, California.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Registered Nursing issue a decision:

- 11 1. Revoking or suspending Registered Nurse License Number 696479, issued to Manik
12 Uppal;
- 13 2. Ordering Manik Uppal to pay the Board of Registered Nursing the reasonable costs of
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: OCTOBER 26, 2012

Louise R. Bailey
18 LOUISE R. BAILEY, M.ED., RN
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant

24 SD2012703097
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Exhibit B

Letter of Public Reproval in Case No. 2013-68



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing

P O Box 944210, Sacramento, CA 94244-2100

P (916) 322-3350 | www.rn.ca.gov

Louise R. Bailey, M.ED., RN, Executive Officer



February 6, 2013

Manik Uppal
1467 Nettle Creek Way
Chula Vista, CA 91915

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
Manik Uppal, Registered Nurse license No. 696479

Dear Mr. Uppal:

On October 22, 2012, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed a First Amended Accusation No. 2013-68 against your Registered Nurse license that superseded Accusation No. 2013-68 that was filed against your Registered Nurse license on July 25, 2012.

The First Amended Accusation alleged that you engaged in unprofessional conduct under Business and Professions Code sections 490, 2761, subsection (f), and 2762, subsections (b) and (c). On July 23, 2011, you drove a car while under the influence of alcohol, and consequently on November 17, 2011, you were convicted of violating Vehicle Code section 23152, subdivision (b), with an enhancement under Vehicle Code section 23578 for having a blood alcohol content of 0.15 percent or more.

Taking into consideration the fact that your unprofessional conduct was an isolated incident in that this was your first and only alcohol related conviction and you have been licensed since 2007 without any prior discipline, the fact that you complied with all terms of your criminal probation, and the fact that your employer, by and through the charge nurse who regularly supervises your work as a registered nurse at your place of employment, submitted an excellent letter of recommendation on your behalf regarding your dedication, progress, and outstanding work in the nursing field, and that there are other mitigating circumstances in this case that support the determination that you are safe to practice registered nursing, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Registered Nursing, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,

Louise R. Bailey M.Ed., RN
LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California